

## ABANDONED AND UNCLAIMED PROPERTY – CHAPTER 2

	<u>Section</u>
Definitions .....	2-101
Disposition of Abandoned and Unclaimed Property .....	2-102
Abandoned Vehicles .....	2-103
Violation to Abandon Motor Vehicle .....	2-104
Authority to Impound Vehicles .....	2-105

## CHAPTER 2 - ABANDONED AND UNCLAIMED PROPERTY

### Section 2-101. DEFINITIONS.

- a. "Abandoned Property" means property that, after appropriate notification to the property owner, the owner fails to redeem, or property to which the owner relinquishes possession without reclaiming the property.
- b. "Unclaimed Property" means property lawfully coming into the possession of the City and remaining unclaimed by the owner.

### Section 2-102. DISPOSITION OF ABANDONED AND UNCLAIMED PROPERTY.

- a. Procedure. Except for vehicles impounded pursuant to § 2-103, et seq. of this Chapter, all abandoned and unclaimed property will be disposed of as provided in this section, which is adopted pursuant to M.S. §471.195, as it may be amended from time to time.
- b. Storage. The department of the city acquiring possession of the abandoned or unclaimed property will arrange for its storage. If city facilities are unavailable or inadequate, the department may arrange for storage at a privately-owned facility.
- c. Claim by Owner. The owner may claim the abandoned or unclaimed property by exhibiting satisfactory proof of ownership and paying the city any storage or maintenance costs incurred by it. A receipt for the abandoned or unclaimed property must be obtained upon release to the owner.
- d. Sale. After the abandoned or unclaimed property has been in the possession of the City for at least 60 days, the property may be sold to the highest bidder at a public auction or sale or by a private sale through a nonprofit organization that has a significant mission of community service. The City Manager or the City Manager's designee may decide whether the sale will be public or private. If the sale is to be by public auction, the City shall give ten days' published notice describing the abandoned or unclaimed property found or recovered and to be sold, and specifying the time and place of the sale. The notice must be published at least once in a legal newspaper in the city.
- e. Proceeds. The proceeds of the sale will be placed in the general fund of the City. If the former owner makes application and furnishes satisfactory proof of ownership within six months of the sale, the former owner will be paid the proceeds of the sale of the abandoned or unclaimed property less the costs of storage and the proportionate part of the cost of published notice and other costs of the sale.

## **Section 2-103. ABANDONED VEHICLES.**

- a. Incorporation of State Statute. M.S. Chapter 168B, and Minn. Rules Chapter 7035, as they may be amended from time to time, are hereby adopted by reference. Except as provided in Section 2-105 of this Chapter, the disposition of abandoned vehicles shall be governed by M.S. Chapter 168B.
- b. Additional Findings. The City finds that, in circumstances involving certain health and safety concerns, it is necessary to apply more stringent regulations than those contained in M.S. Chapter 168B. Accordingly, the City adopts the following additional regulations in Sections 2-104 and 2-105.

## **Section 2-104. VIOLATION TO ABANDON MOTOR VEHICLE.** A person who abandons, parks, keeps, places or stores any junk vehicle or inoperable vehicle on any public, or on any private property without the consent of the person in control of the property is guilty of a misdemeanor.

## **Section 2-105. AUTHORITY TO IMPOUND VEHICLES.**

- a. Inoperable or junk vehicles on public property. No person shall park, keep, place, store or abandon any junk vehicle or inoperable vehicle on a public street, alley, or public property within the city. The City Manager or Manager's designee or any peace officer employed or whose services are contracted for by the city may take into custody and impound any inoperable or junk vehicle.
- b. Unauthorized vehicles. The City Manager, Manager's designee, or any peace officer employed or whose services are contracted for by the city, may take into custody and impound any unauthorized vehicle under M.S. §169.041 as it may be amended from time to time. A vehicle may also be impounded after it has been left unattended in one of the following public locations for the indicated period of time:
  1. On a highway and properly tagged by a peace officer, four hours;
  2. Located so as to constitute an accident or traffic hazard to the traveling public, as determined by a peace officer, immediately; or
  3. That is a parking facility or other public property owned or controlled by a unit of government, properly posted, four hours.
- c. Illegally parked vehicles. The City Manager, Manager's designee, or any peace officer employed or whose services are contracted for by the city, may take into custody and impound any vehicle that is illegally parked, the owner of which has been ordered to remove it.

- d. Vehicles impeding road or utility activities. The City Manager, Manager's designee, or any peace officer employed or whose services are contracted for by the city, may take into custody and impound any vehicle that is impeding, obstructing, or interfering with the repair, construction, or maintenance activities of public utilities or public transportation. Except in an emergency situation, reasonable notice must be given to the vehicle owner or user of such activities.
- e. Vehicles obstructing traffic or emergency response. The City Manager, Manager's designee, or any peace officer employed or whose services are contracted for by the city, may take into custody and impound any vehicle, whether occupied or not, that is: (1) found stopped, standing, or parked in violation of an ordinance or state statute; (2) reported stolen; or (3) impeding firefighting or other emergency activities, snow removal or plowing, or the orderly flow of traffic.
- f. Notice and hearing.
  - 1. The notice and hearing requirements in this paragraph do not apply to vehicles described in Section 2-105(a) – (e).
  - 2. Before impounding a junk vehicle or inoperable vehicle, the Manager or authorized designee must give 10 days' written notice through service by mail, by posting a notice on the property, or by personal delivery to the owner or person in control of the property on which the vehicle is located. When the property is occupied, service upon the occupant is deemed service upon the owner. Where the property is unoccupied or abandoned, service may be by mail to the last known owner of record of the property or by posting on the property. The notice must state:
    - a) A description of the vehicle;
    - b) That the vehicle must be moved or properly stored within 10 days of service of the notice;
    - c) That if the vehicle is not removed or properly stored as ordered, the vehicle will be towed and impounded at an identified location;
    - d) That the vehicle may be reclaimed in accordance with the procedures contained in M.S. §168B.07 or disposed of in accordance with M.S. §168B.08; and
    - e) That the owner of the vehicle or the owner or person in control of the property on which the vehicle is located may in writing request a hearing before the City Manager or authorized designee.

3. Hearing, action. If a hearing is requested during the 10-day period, the City Manager or authorized designee must promptly schedule the hearing, and no further action on the towing and impoundment of the vehicle may be taken until the City Manager's decision is rendered. At the conclusion of the scheduled hearing, the City Manager or authorized designee may (1) cancel the notice to remove the vehicle; (2) modify the notice; or (3) affirm the notice to remove. If the notice is modified or affirmed, the vehicle must be disposed of in accordance with the city's written order.
- g. Impounding procedures. The impounded vehicle will be surrendered to the owner by the towing contractor only upon payment of the required impound, towing and storage fees. Vehicle impounding will be conducted in accordance with M.S. Chapter 168B, governing the sale of abandoned motor vehicles.